



February 21, 2014

ENGROSSED

HOUSE BILL No. 1391

DIGEST OF HB 1391 (Updated February 19, 2014 1:50 pm - DI 104)

Citations Affected: IC 12-7; IC 12-10.

Synopsis: CHOICE program. Beginning January 1, 2015, changes asset limitations within the community and home options to institutional care for the elderly and disabled program (program) from
(Continued next page)

Effective: Upon passage; January 1, 2015.

Clere, Brown C, Negele, Kubacki

(SENATE SPONSORS — BECKER, BREAUX, ECKERTY, BRODEN,
STOOPS)

January 21, 2014, read first time and referred to Committee on Family, Children and Human Affairs.

January 23, 2014, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

January 28, 2014, amended, reported — Do Pass.

January 30, 2014, read second time, amended, ordered engrossed.

January 31, 2014, engrossed.

February 3, 2014, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 10, 2014, read first time and referred to Committee on Health and Provider Services.

February 20, 2014, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

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Digest Continued

\$500,000 to \$250,000 and specifies certain exemptions. Beginning January 1, 2015, requires annual adjustment of the asset limitation using the federal Consumer Price Index. Beginning January 1, 2015, allows a participant who is unable to perform at least one activity to participate in the program under specified circumstances. Requires the division of aging (division) and the area agencies on aging to jointly establish: (1) a needs based assessment to be used in determining a client's needs and care plan; (2) the percentage of program dollars needed to adequately provide case management services; (3) a cost participation schedule for program recipients; (4) procedures for determining cost savings; and (5) program performance measures for the area agencies on aging. Beginning January 1, 2015, allows the division to: (1) annually redetermine program eligibility; and (2) place a lien to recoup the cost of program services that exceed \$20,000. Requires the division to exclude \$20,000 of countable assets in determining cost participation for the program.



February 21, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1391

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-7-2-49.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2015]: 1, 2014]: **Sec. 49.5. "CPI", for purposes of**
4 **IC 12-10-10, has the meaning set forth in IC 12-10-10-2.5.**

5 SECTION 2. IC 12-10-10-1 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JANUARY 1, 2015]: Sec. 1. As used in this
7 chapter, "case management" means an administrative function
8 conducted locally by an area agency on aging that includes the
9 following:

10 (1) Assessment of an individual to determine the individual's
11 functional impairment level and corresponding need for services.

12 **(2) Initial verification of an individual's income and assets.**

13 **(2) (3) Development of a care plan addressing that:**

14 **(A) addresses** an eligible individual's needs;

15 **(B) takes into consideration the individual's family and**
16 **community members who are willing to provide services to**

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1 **meet any of the individual's needs; and**
 2 **(C) is consistent with a person centered approach to client**
 3 **care.**

4 ~~(3)~~ **(4)** Supervision of the implementation of appropriate and
 5 available services for an eligible individual.

6 ~~(4)~~ **(5)** Advocacy on behalf of an eligible individual's interests.

7 ~~(5)~~ **(6)** Monitoring the quality of community and home care
 8 services provided to an eligible individual.

9 ~~(6)~~ **(7)** Reassessment of the care plan to determine:

10 **(A)** the continuing need and effectiveness of the community
 11 and home care services provided to an eligible individual
 12 under this chapter; **and**

13 **(B) the annual reverification of a plan recipient's income**
 14 **and assets, as may be required by the division under**
 15 **section 4(e) of this chapter.**

16 ~~(7)~~ **(8)** Provision of information and referral services to
 17 individuals in need of community and home care services.

18 SECTION 3. IC 12-10-10-2.5 IS ADDED TO THE INDIANA
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS
 20 [EFFECTIVE JANUARY 1, 2015]: **Sec. 2.5. As used in this chapter,**
 21 **"CPI" refers to the United States Bureau of Labor Statistics**
 22 **Consumer Price Index, all items, all urban consumers, or its**
 23 **successor index.**

24 SECTION 4. IC 12-10-10-4, AS AMENDED BY P.L.99-2007,
 25 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JANUARY 1, 2015]: Sec. 4. (a) As used in this chapter, "eligible
 27 individual" means an individual who **meets the following criteria:**

28 (1) Is a resident of Indiana.

29 (2) Is:

30 (A) at least sixty (60) years of age; or

31 (B) an individual with a disability.

32 (3) Has assets **that meet the following criteria:**

33 **(A) For an individual who participates in the program and**
 34 **whose date of application for the program is before**
 35 **January 1, 2015, assets** that do not exceed five hundred
 36 thousand dollars (\$500,000), as determined by the division.
 37 **and**

38 **(B) For an individual whose date of application for the**
 39 **program is after December 31, 2014, assets that do not**
 40 **exceed two hundred fifty thousand dollars (\$250,000)**
 41 **adjusted by the CPI, as set forth in subsection (c). In**
 42 **determining assets under this clause, the division:**



(i) may count only property that is included in determining assets in the Medicaid aged and disabled waiver program in determining an individual's eligibility for the aged and disabled waiver; and
 (ii) shall exclude an additional twenty thousand dollars (\$20,000) in countable assets, as adjusted by the CPI as set forth in subsection (c).

(4) Qualifies under criteria developed by the board as having an impairment that places the individual at risk of losing the individual's independence, as described in subsection (b).

(b) For purposes of subsection (a), an individual is at risk of losing the individual's independence if the individual is unable to perform **any of the following:**

(1) Two (2) or more activities of daily living. The use by or on behalf of the individual of any of the following services or devices does not make the individual ineligible for services under this chapter:

(+) (A) Skilled nursing assistance.

(-) (B) Supervised community and home care services, including skilled nursing supervision.

(-) (C) Adaptive medical equipment and devices.

(+) (D) Adaptive nonmedical equipment and devices.

(2) One (1) activity of daily living if, using the needs based assessment established under section 13(1) of this chapter, the area agency on aging determines that addressing the single activity of daily living would significantly reduce the likelihood of the individual's loss of independence and the need for additional services.

(3) An activity if, using the needs based assessment established under section 13(1) of this chapter, the area agency on aging determines that targeted intervention or assistance with the activity would significantly reduce the likelihood of the individual's loss of independence and the need for additional services.

(c) Before June 1, 2015, and before June 1 of each subsequent year, the division shall determine an adjusted asset limit to be used for purposes of subsection (a)(3)(B) and section 13 of this chapter in the following state fiscal year. The adjusted asset limit for the following state fiscal year shall be determined as follows:

STEP ONE: Determine the percentage change between:

(A) the CPI as last reported for the calendar year ending in the state fiscal year in which the determination is made;



1 and

2 (B) the CPI as last reported for the calendar year that
3 precedes the calendar year described in clause (A).

4 **STEP TWO:** Express the percentage change determined in
5 STEP ONE as a two (2) digit decimal rounded to the nearest
6 hundredth. A negative percentage change under this STEP
7 must be treated as zero (0).

8 **STEP THREE:** Add one (1) to the STEP TWO result.

9 **STEP FOUR:** Multiply:

10 (A) the STEP THREE result; by

11 (B) the asset limit used for purposes of subsection (a)(3)(B)
12 in the state fiscal year in which the determination is made.

13 Before June 15, 2015, and before June 15 of each subsequent year
14 the division shall publish in the Indiana Register the adjusted asset
15 limit to be used for purposes of subsection (a)(3)(B) in the following
16 state fiscal year.

17 (d) The division shall, in accordance with standards established
18 under section 13(3) of this chapter, establish a cost participation
19 schedule for a program recipient based on the program
20 participant's income and countable assets. The division shall
21 exclude twenty thousand dollars (\$20,000) of a participant's
22 countable assets from consideration in determining a participant's
23 cost participation. The cost participation schedule established
24 under this subsection may be applied only to an individual whose
25 date of application for the program is after December 31, 2014.

26 (e) The division may require annual reverification for program
27 participants whom the division determines are likely to experience
28 a material increase in income or assets. An individual shall submit
29 the information requested by the division to carry out the
30 redetermination allowed by this subsection.

31 (f) The division may not require a family or other person to
32 provide services as a condition of an individual's eligibility for or
33 participation in the program.

34 **SECTION 5. IC 12-10-10-7 IS AMENDED TO READ AS**
35 **FOLLOWS [EFFECTIVE JANUARY 1, 2015]:** Sec. 7. (a) Except as
36 provided in subsection (b), the case management under this chapter of
37 an individual leading to participation in the program may not be
38 conducted by any agency that delivers services under the program.

39 (b) If the division determines that there is no alternative agency
40 capable of delivering services to the individual, the area agency on
41 aging that performs the assessment under the program may also deliver
42 the services.



1 **(c) The division shall provide the necessary funding to provide**
 2 **case management services for the program, as determined under**
 3 **section 13(2) of this chapter.**

4 SECTION 6. IC 12-10-10-9 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2015]: Sec. 9. (a) The
 6 division shall establish a program to train relatives of eligible
 7 individuals to provide homemaker and personal care services to those
 8 eligible individuals.

9 (b) Relatives of eligible individuals who complete the training
 10 program established under this section are eligible for reimbursement
 11 under this chapter or under the Medicaid program for the provision of
 12 homemaker and personal care services to those eligible individuals.
 13 Reimbursement under the Medicaid program is limited to those cases
 14 in which the provision of homemaker and personal care services to an
 15 eligible individual by a relative results in financial hardship to the
 16 relative.

17 **(c) For services that an individual is eligible to receive under the**
 18 **program but receives from a relative or other individual without**
 19 **receiving compensation, the area agency on aging shall:**

- 20 (1) determine, in accordance with section 13(4) of this
 21 chapter, the savings from not paying for these services; and
 22 (2) allocate twenty percent (20%) of the savings calculated
 23 under subdivision (1) to offset the individual's cost share
 24 amount, if any, for participating in the program.

25 SECTION 7. IC 12-10-10-13 IS ADDED TO THE INDIANA
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE UPON PASSAGE]: Sec. 13. The division and the area
 28 agencies on aging shall jointly develop policies that establish the
 29 following:

- 30 (1) A needs based assessment to be used in determining a
 31 client's needs and care plan under section 1(3) of this chapter.
 32 (2) The percentage of program dollars adequate to provide
 33 case management services.
 34 (3) A cost participation schedule for program recipients as
 35 required by section 4(d) of this chapter.
 36 (4) Procedures for determining cost savings as required by
 37 section 9(c) of this chapter.
 38 (5) Program performance measures for the area agencies on
 39 aging.

40 SECTION 8. IC 12-10-10-14 IS ADDED TO THE INDIANA
 41 CODE AS A NEW SECTION TO READ AS FOLLOWS
 42 [EFFECTIVE JANUARY 1, 2015]: Sec. 14. (a) This section applies



1 only to an individual whose date of application for the program is
2 after December 31, 2014.

3 (b) The division may obtain a lien on the program recipient's
4 real property for the cost of services provided to the individual in
5 the program if the cost of the services exceeds twenty thousand
6 dollars (\$20,000), as adjusted by the CPI under section 4(c) of this
7 chapter, in the same manner and with the same requirements as
8 the office obtains a lien against a Medicaid recipient under
9 IC 12-15-8.5.

10 (c) The division may adopt rules necessary under IC 4-22-2 to
11 implement this section.

12 SECTION 9. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1391, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 14, after "assets." insert **"The division shall exclude ten thousand dollars (\$10,000) of a participant's countable assets from consideration in determining a participant's cost participation."**

and when so amended that said bill do pass.

(Reference is to HB 1391 as introduced.)

KUBACKI, Chair

Committee Vote: yeas 12, nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1391, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 32, delete "14" and insert **"13"**.

Page 5, delete lines 19 through 25.

Page 5, line 26, delete "IC 12-10-10-14" and insert "IC 12-10-10-13".

Page 5, line 28, delete "14." and insert **"13."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1391 as printed January 24, 2014.)

BROWN T, Chair

Committee Vote: yeas 13, nays 4.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1391 be amended to read as follows:

Page 2, line 33, delete "on" and insert "**and whose date of application for the program is before July 1, 2014,**".

Page 2, delete line 34.

Page 2, line 37, delete "who applies" and insert "**whose date of application**".

Page 2, line 37, after "program" insert "is".

Page 4, line 16, after "." insert "**The cost participation schedule established under this subsection may be applied only to an individual whose date of application for the program is after June 30, 2014.**".

Page 5, line 21, after "(a)" insert "**This section applies only to an individual whose date of application for the program is after June 30, 2014.**

(b)".

Page 5, line 28, delete "(b)" and insert "(c)".

(Reference is to HB 1391 as printed January 28, 2014.)

CLERE

 COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1391, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 2, delete "JULY" and insert "JANUARY 1, 2015]:".

Page 1, line 3, delete "1, 2014]:".

Page 1, line 6, delete "JULY 1, 2014]:" and insert "JANUARY 1, 2015]:".

Page 2, line 20, delete "JULY 1, 2014]:" and insert "JANUARY 1, 2015]:".

Page 2, line 26, delete "JULY 1, 2014]:" and insert "JANUARY 1, 2015]:".

Page 2, line 34, delete "July 1," and insert "**January 1, 2015,**".

Page 2, line 35, delete "2014,".

Page 2, line 38, delete "June 30," and insert "**December 31,**".

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Page 3, line 4, delete "ten" and insert **"twenty"**.

Page 3, line 5, delete "\$10,000" and insert **"(\$20,000)"**.

Page 3, line 22, delete "living, if" and insert **"living if, using the needs based assessment established under section 13(1) of this chapter,"**.

Page 3, line 26, delete "activity, if" and insert **"activity if, using the needs based assessment established under section 13(1) of this chapter,"**.

Page 4, line 12, after "shall" insert **", in accordance with standards established under section 13(3) of this chapter,"**.

Page 4, line 14, delete "ten" and insert **"twenty"**.

Page 4, line 15, delete "\$10,000" and insert **"(\$20,000)"**.

Page 4, line 19, delete "June 30," and insert **"December 31,"**.

Page 4, line 26, after "for" insert **"or participation in"**.

Page 4, line 29, delete "JULY 1, 2014]:" and insert **"JANUARY 1, 2015]:"**.

Page 4, line 38, delete "." and insert **", as determined under section 13(2) of this chapter."**.

Page 4, line 40, delete "JULY 1, 2014]:" and insert **"JANUARY 1, 2015]:"**.

Page 5, line 11, delete "division shall distribute the program" and insert **"area agency on aging shall:**

- (1) determine, in accordance with section 13(4) of this chapter, the savings from not paying for these services; and**
- (2) allocate twenty percent (20%) of the savings calculated under subdivision (1) to offset the individual's cost share amount, if any, for participating in the program."**

Page 5, delete lines 12 through 21, begin a new paragraph and insert:

"SECTION 7. IC 12-10-10-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. The division and the area agencies on aging shall jointly develop policies that establish the following:

- (1) A needs based assessment to be used in determining a client's needs and care plan under section 1(3) of this chapter.**
- (2) The percentage of program dollars adequate to provide case management services.**
- (3) A cost participation schedule for program recipients as required by section 4(d) of this chapter.**
- (4) Procedures for determining cost savings as required by section 9(c) of this chapter.**



(5) Program performance measures for the area agencies on aging."

Page 5, line 22, delete "IC 12-10-10-13" and insert "IC 12-10-10-14".

Page 5, line 24, delete "[EFFECTIVE JULY 1, 2014]: Sec. 13." and insert "[EFFECTIVE JANUARY 1, 2015]: **Sec. 14.**".

Page 5, line 26, delete "June 30," and insert "**December 31,**".

Page 5, line 29, delete "ten" and insert "**twenty**".

Page 5, line 30, delete "(\$10,000)" and insert "**(\$20,000)**".

Page 5, after line 34, begin a new paragraph and insert:
"SECTION 9. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to HB 1391 as reprinted January 31, 2014.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 8, Nays 1.

